IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

FRIDAY, THE 22ND JUNE 2007 / 1ST ASHADHA 1929

WP(C).No. 23484 of 2006(U)

PETITIONER:

K.K.ABDUL HAMEED, RETIRED P.D.TEACHER,
GOVT. U.P.SCHOOL, UNNIKULAM, RESIDING AT
KUTTIKKANDY HOUSE, KARIYATHANKAVU P.O.,
BALUSSERY, KOZHIKODE DISTRICT.

BY ADV. SRI.R.PARTHASARATHY

RESPONDENTS:

1. THE REGIONAL MANAGER,
KERALA STATE DEVELOPMENT CORPORATION FOR
SC & ST, KANNUR.

2. THE TAHSILDAR, KANNUR.

3. THE HEADMASTER, GOVT. U.P.SCHOOL,
UNNIKULAM, P.O.EKAROOL, BALUSSERY.

4. PRAKASHAN.C.P., POOVALLOYIL HOUSE,
EDAKKAD, KANNUR.

Addl. R5. THE ASSISTANT EDUCATIONAL OFFICER, BALUSSERY

Addl.R6. THE ACCOUNTANT GENERAL (A&E)
THIRUVANANTHAPURAM
(Additional respondents 5 and 6 are impleaded as per order dated 6.3.2007 in IA 3538/07)

BY ADV. SRI.BIJI MATHEW
SRI.M.K.CHANDRAMOHAN DAS, SC FOR R1.
GOVERNMENT PLEADER SMT.SUDHA.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 22/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

Ext.P1: True copy of the gratuity payment order issued by the officer of the Accountant General (A&E), Kerala.

Ext.P2: True copy of the reply given by the headmaster GUPS, Unnikulam

RESPONDENT'S EXHIBITS:

Ext.R1(a): True copy of the notice dated 22.3.1996.

Ext.R1(b): True copy of the request made by the corporation to the Revenue Authorities dated 19.6.2001.

// True copy //

P.A. To Judge

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A.K.BASHEER, J.

W.P.(C)No.23484 OF 2006

Dated this the 22nd day of June, 2007

JUDGMENT

Petitioner is a retired Primary Department teacher. His grievance is that the amount payable to him as Death Cum Retirement Gratuity is being withheld without any justifiable reasons. The authority concerned is refusing to issue non liability certificate so as to enable him to get the DCRG. It is in the above circumstances, he has filed this writ petition for appropriate reliefs.

2. It is admitted by the petitioner that he had stood as surety for a loan availed of by respondent no.4 from the Regional Office of Kerala State Development Corporation for SC & ST at Kannur. Respondent no.4 had committed default in repayment of the loan. It is seen from Exts.R1(a) and R1(b) that the Corporation had issued notice to respondent no.4 directing him to pay off the debt. But he had failed to do so. At that stage the Corporation had approached the Department with a request to withhold release of DCRG to the petitioner. The department in

turn refused to issue non liability certificate.

3. It is pertinent to note that respondent no.1 has explicitly admitted that petitioner had not given any consent in writing to effect recovery from his retiral benefits as provided under Ruling no.1 in Rule 3 of Part III KSR. In view of the above, the refusal on the part of the department to issue non liability certificate to the petitioner cannot be justified at all.

Therefore, the writ petition is allowed. Respondent no.3 shall issue non liability certificate in favour of the petitioner and forward the same to the competent officer within one month from the date of receipt of a copy of this judgment. On receipt of the same, the officer concerned shall ensure that the amount payable to the petitioner is released to him within one month from the date of receipt thereof. It is made clear that it will be open to respondent no.1 to proceed against the petitioner in accordance with law for recovery of the amounts, if any, due from him in his capacity as surety.

A.K.BASHEER, JUDGE

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